HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Revision No. 43 of 2005

With

Interim Relief Application No. 4007/05

The New India Insurance Company Limited
Through its Divisional Manager Opposite
Judgee Court, Nainital Road,
Haldwani, (Nainital).

.....Revisionist.

Vs

1. Raees Ahmad S/o Bhoora
2. R/o Mohalla-Jakhira
3. Bareilly- District- Bareilly.
4. MAC Tribunal/District Judge
5. Udham Singh Nagar.

.....Respondents

Sri R.B. Agrawal learned counsel for the revisionist.
Sri Nand Prasad learned Standing Counsel for the respondents.

Dated: -22-04-2006

Hon'ble B.S. Verma, J.

Heard Sri R.B. Agrawal learned counsel for the revisionist and Sri Nand Prasad learned counsel for the respondents.

The present revision has been filed against the impugned order dated 7.5.2005 passed by learned District Judge, Motor Accident Claim Tribunal, Udham Singh Nagar in Misc. case No. 4 of 2005 whereby the learned District Judge, Motor accident Claim Tribunal has rejected the application of the revisionist for the execution of the amount of compensation from the owner/insured of the vehicle in compliance of the Motor Accident Claim Tribunal, Udham Singh Nagar passed in MACT No. 249/02 by MAC Tribunal, Udham Singh Nagar on 1.10.2004.

Proviso of Section 115 of C.P.C has been amended by the amended Act, 1999 with effect from 1-7-2002, which provides as under:-

> *"Provided that the High Court shall not, under this section, vary or reverse any order made, or any order deciding an issue, in the course of a suit or other proceeding, except where the order, if it had been made in favour of the party applying for revision, would have finally disposed of the suit or other proceedings.*

The application for recovery for awarded amount was rejected. In view of Proviso, if the order made in favour of Revisionist would not finally be disposed of the proceedings. Then, the revision is not maintainable and revision preferred is liable to the dismissed and is hereby dismissed.

However, liberty is given to the revisionist that he may pursue appropriate remedy before the appropriate court.

Office is directed to return the certified copies of the order, which was filed in the Civil Revision by the revisionist.

(B.S. Verma, J)

Dated: -22-4-2006

M.K.